

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTHONY JOHNSON,

Petitioner,

V.

JEFFREY UTTECHT,

Respondent.

CASE NO. 3:16-CV-05019-RBL-JRC

REPORT AND RECOMMENDATION

NOTED FOR: APRIL 15, 2016

The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge J. Richard Creature. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

On January 8, 2016, petitioner filed a motion for leave to proceed *in forma pauperis* (IFP). Dkts. 1, 3. On February 12, 2016 the Court ordered petitioner to show cause why his IFP motion should not be denied, or in the alternative, that petitioner pay the filing fee. Dkt. 5. Petitioner paid the filing fee on March 17, 2016, and thus, the Court should deny his IFP motion as moot.

DISCUSSION

3 A district court may permit indigent litigants to proceed *in forma pauperis* upon
4 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has
5 broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314
6 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963). Petitioner paid the \$5.00 filing fee
7 on March 17, 2016. *See* Dkt. entry dated March 17, 2016. Therefore, his IFP motion is moot.

CONCLUSION

9 Because petitioner paid the filing fee, the undersigned recommends that the Court deny
10 his IFP motion as moot. Dkts. 1, 3.

11 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), Petitioner shall have fourteen
12 (14) days from service of this Report and Recommendation to file written objections thereto. *See*
13 *also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for
14 purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit
15 imposed by Rule 72(b), the Clerk is directed set this matter for consideration on **April 15, 2016**
16 as noted in the caption.

Dated this 22nd day of March, 2016.


J. Richard Creature
United States Magistrate Judge